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Supreme Court, U.S.
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NO.

SUPREME COURT OF THE UNITED STATES

October Term, 1985

IN RE THE MARRIAGE OF

KURT ROSENBAUM,

Appellee,

and

JEAN ROSENBAUM,

Appellant, acting Pro Se.

ON APPEAL FROM THE APPELLATE COURT

OF ILLINOIS, FIRST DISTRICT.

JURISDICTIONAL STATEMENT

Jean Rosenbaum, Pro Se

1354 West Greenleaf Street

Chicago, Illinois 60626

973-6047 (312)

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JURISDICTIONAL STATEMENT

JEAN ROSENBAUM, the Appellant, acting Pro Se, appeals from the final ORDER DISPOSING OF APPEAL UNDER SUPREME COURT RULE 23 entered by the Appellate Court of Illinois, First District on March 5, 1985. This ORDER affirmed in all respects the JUDGMENT OF DISSOLUTION OF

MARRIAGE entered by the Circuit Court of Cook County, Illinois, Domestic Relations Division, on December 16, 1983 (not December 12, 1983, as the Appellate ORDER states), which granted KURT ROSENBAUM a divorce on grounds of mental cruelty from JEAN ROSENBAUM, (his wife for over 36 years, who bore him three children). It allotted her only a minimal share of the marital property. Both trial court and the Appellate Court evaded the many Federal Constitutional issues entered at the trial court level by JEAN ROSENBAUM (hereinafter referred to as "Wife") and refused to rule on them.

QUESTIONS PRESENTED BY THE APPEAL.

The questions presented by the appeal, including the United States Constitution clauses which apply thereto, are:

1. If affluent KURT ROSENBAUM, the

Appellee (hereinafter referred to as "Husband"), who admitted he refused to meet any of his husbandly obligations for many years to Wife (with the exception of hospitalization coverage that also benefited him), and who has used every device to ostracize her from her own family, properly proved his lack of cause and provocation, as required under Illinois family law governing divorce on mental cruelty grounds? (U. S. Constitution, Amendments I, IV, V, XIV.)

2. If Illinois Public Act 83-954, effective July 1, 1984, which <u>may</u> have been applied to this case, is unconstitutional and defective, and should be voided? (The intention of the Act, as expressed by a sponsor, State-Senator William Marovitz, is to permit one spouse to secure a divorce from the other, even if con-

tested, after a two-year separation. Wife presented evidence the Act was misrepresented when passed; U. S. Constitution, Amendments IV, V, IX, X, XIV.)

3. If the Appellate Court Order in the related Interlocutory Appeal No. 82-1790 on the injunction issues violated Wife's Constitutional and family rights? (This Order approved the trial court decision which resulted in the cut-off of all practical forms of communication by Wife to Husband, despite their mutual family of three children borne by Wife, of which Husband is the real father.) (U. S. Constitution, Amendments I, V, X, XIV.)

4. If it is unconstitutional to require a spouse (Wife) to legally separate the family to pursue and enforce legal support rights? (U. S. Constitution, Amendments IV, V, IX, X, XIV.)

5. If the Court(s) below improperly equated the informal separation of the parties created by Husband's wilful abandonment of Wife, with legal separation requiring it not to fully recognize Wife's family and other legal rights? (U. S. Constitution, Amendments I, V, IX, X, XIV.)

6. If the oral agreement/contract between the parties entered into at time of marriage in 1948, which made Wife a one-half owner of all property acquired during the marriage, was improperly ignored by the Court(s) below in their decision-making? (U. S. Constitution, Amendments V, XIV.)

7. If the irregular Court processes employed by trial court and approved by Appellate Court, amounted to gross abuse of process and discretion, denial of due process and equal protec-

tion of law to Wife, and comprised prejudice against her cause? (U. S. Constitution, Amendments V, XIV.)

The foregoing includes, but is not limited to, the following subsidiary questions:

a) If the Court(s) below improperly refused to restrain Husband from disposing of marital assets during proceedings below?

b) If trial court held proper, legally conducted hearings on Wife's many contributions to the marriage and family, both prior to and after Husband's departure (required under Illinois marriage and divorce law), and if the Court(s) below improperly did not heed these contributions?

c) If trial court improperly refused to enter a Declaratory Judgment to clearly define the rights of

Wife in all aspects, including common-law rights, as Wife requested, and Appellate Court improperly ignored the issue, which was properly briefed?

d) If Appellate Court improperly refused Wife's requests to enter a proper, published Opinion in the cause, and certify important questions for appeal to the higher Courts?

e) If Appellate Court improperly did not rule on all important issues, which include but are not limited to (1) Wife's claim for damages from Husband because of intentional tort damage he did to the development and welfare of her children and damage to herself because of his wilful lack of cooperation, unusual behaviour, etc.; (2) the possible invalidity of Public Act 83-954 because of its misrepresenta- to the Illinois Senate Committee prior

to its passage, as well as for other reasons, etc.?

f) If Appellate Court improperly refused to state if it had considered Public Act 83-954 (effective July 1, 1984), or applied it to this case, when affirming the trial court judgment in all respects?

g) If the distribution of marital property (only about 10-11% to Wife after a 36-year marriage in which she bore and raised three children, worked in the Rosenbaum office, gave good advice, did without vacations many years, received little or no personal spending money, etc.), is vastly unfair to Wife, and improperly not in accordance with Illinois statutory law and legal precedents?

h) If the Courts below improperly denied Wife's request that the parties be referred to the Cook County Con-

ciliation Service of the Circuit Court?

i) If the Courts below improperly denied Wife temporary support at trial, payment of dental bills, a vacation, etc., from family marital funds, although the other family members enjoy these privileges from said funds?

j) If the Courts below improperly refused to permit Wife to investigate the possible partial or full sale of the Rosenbaum practice, and to secure a proper evaluation thereof when complications arose?

k) If the Courts below improperly denied aid to Wife in securing copies of the Forms 1099 filed on Husband's behalf by investment companies, etc., so she could secure an accurate picture of marital assets?

l) If the Courts below improperly denied aid to Wife in her attempt to

enter into evidence records from the Corporate Book of the 53rd-Woodlawn-Kimbark Shopping Center to prove her limited, one-half ownership therein, although she properly subpoened said Records? (Trial court outright refused to totally support this subpoena as well as that to Chicago-Kent College of Law for daughter Jody's records.)

m) If Appellate Court improperly denied Wife's motion for a supersedeas and stay of the trial court judgment?

n) If the Petition for Dissolution of Marriage was a genuinely valid document, and if trial court had jurisdiction to recognize it, as another case between the parties was still in existence?

o) If the Courts below improperly denied Wife the benefits of the legal

conclusions reached in the prior case between the parties, Rosenbaum v. Rosenbaum (1st Dist. 1976), 38 Ill. App. 3d 1, 349 N.E.2d 73, which granted Wife certain rights under the legal principles of res judicata and collateral estoppel, as well as estoppel by verdict?

p) If Husband adequately proved his charges in his ANSWER TO DEMAND for BILL OF PARTICULARS?

q) If Husband's witnesses were credible, and if Wife's "acts" were actually acts of mental cruelty, or merely distortions of reality on the part of Husband and said witnesses?

r) If the 20-page JUDGMENT OF DISSOLUTION OF MARRIAGE (hereinafter referred to as JUDGMENT OF DISSOLUTION) is unnecessarily cumbersome, highly inaccurate, needlessly slanderous to Wife, and should be voided

for these and other reasons?

s) If the JUDGMENT OF DISSOLUTION improperly deems large sums of marital funds to be property of the children without giving them control of it, thus enabling Husband to dispose of the funds in a whimful manner.

t) If the financial distribution and terms of the JUDGMENT OF DISSOLUTION resemble a "con-scheme" which can jeopardize the welfare of the entire family, Wife included.

u) If the Judges and Justices below were sufficiently free of innate male and other prejudice, and/or other influences, to rule impartially and according to law? That if so, they improperly did not voluntarily disqualify themselves?

8. If it is very unfair to undermine the security and status of a Wife and

Mother (married in 1948 after a serious economic Depression and World War II), with new law in her older years, when she might have conducted her entire adult life differently if she had known this could happen? (U.S.Amendments V,XIV.)

PARTIES TO THE PROCEEDING.

Parties to the proceeding in the Appellate Court of Illinois were identical to those set forth in the caption of this document in this Court.[1]

1/ In trial court, KURT ROSENBAUM was the Petitioner, and JEAN ROSENBAUM the Respondent. In Appellate Court, Husband was designated Petitioner-Appellee, and Wife the Respondent-Appellant, and these designations are on all documents filed in the Illinois Supreme Court. However, in the latter Court, according to its usual custom, all Orders entered refer to Husband as Respondent, and Wife as Petitioner, the Wife having filed the Petition for Appeal As a Matter of Right, or in the Alternative, Petition for Leave to Appeal.

TABLE OF CONTENTS

	Page(s)
QUESTIONS PRESENTED BY THE APPEAL	2-12a
PARTIES TO THE PROCEEDING ..	12-a
TABLE OF CONTENTS	12-b
TABLE OF AUTHORITIES	12c-12d-13
OPINIONS AND/OR FINAL ORDERS ENTERED BY COURTS BELOW ..	13-14
JURISDICTIONAL GROUNDS	14-19
CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED	19-20
STATEMENT OF THE CASE	20-38
QUESTIONS PRESENTED ARE SUFFICIENTLY SUBSTANTIAL TO REQUIRE CONSIDERATION	38-46
JEAN ROSENBAUM'S AFFIDAVITS.	47,48
APPENDIX (Filed as a separate document; page numbers begin with "A".)	

TABLE OF AUTHORITIES

Cases	Page(s)
Graff v. Graff (1st Dist. 1979) 71 Ill. App. 3d 496, 389 N.E. 2d 1206	40
Greenberg, In re Marriage of (1st Dist. 1981) 102 Ill. App. 3d 938, 429 N.E. 2d 1334	36
Kandelin v. Social Security Board, (C.C.A.N.Y. (1943), 136 F. 2d 327, 147 A.L.R. 596	38
Moore v. City of East Cleveland, Ohio (1977), 431 U. S. 494, 97 S. Ct. 1932	44
Rosenbaum v. Rosenbaum (1st Dist.1976) 38 Ill. App. 3d 1, 349 N.E. 2d 73	11, 14, 28, 40
Strukoff v. Strukoff (1979) 76 Ill. 2d 53	42

TABLE OF AUTHORITIES (continued)

	Page(s)
United States Constitution	
Amendments:	
Amendments I, IV, IX, X	20,33
Amendments V, XIV	20,33,37
Amendment XIII	20,33,40
Federal Statutes	
28 USCA 1257(2); 2101(c); 2103; 2106; 2403(b)	18,18a,19
42 USCA 402(b)(1); 402 (5)(A)(B); 416 (c)(1)	20,36
State of Illinois Statutes	
Ill. Rev. Stat. (1983), Ch. 40, Sec. 401 (Provocation)	20, 42
Ill. Rev. Stat. (1983), Ch. 40, Sec. 401 (P. A. 83-954) ...	3,7,15, 17,20,30, 35,36,43
Ill. Rev. Stat. (1983), Ch. 40, Sec. 402	17,18, 20,35
Ill. Rev. Stat. (1983), Ch. 40, Sec. 503	20

TABLE OF AUTHORITIES (continued)

Page (s)

Ill. Rev. Stat. (1983), Ch. 40,
Sec. 1001 20,37

Ill. Rev. Stat. (1983), Ch. 40,
Sec. 1007 20

OPINIONS AND/OR FINAL ORDERS ENTERED BY THE COURTS BELOW.

1. Appellate Court of Illinois, First District; Interlocutory Appeal No. 82-1790 (on injunction issues; ORDER DISPOSING OF APPEAL UNDER SUPREME COURT RULE 23 (Appendix to Jurisdictional [2]

[2] Hereinafter referred to as the "Appendix."

Statement, pp. (A.1-10)). Dated: December 28, 1982.

2. Appellate Court of Illinois, First District, Appeal No. 84-0489, ORDER DISPOSING OF APPEAL UNDER SUPREME COURT RULE 23 (Appendix, pp. (A.12-26)). Dated: March 5, 1985.

3. Related case, ROSENBAUM v. ROSENBAUM (First Dist. 1976) 38 Ill. App. 3d 1; 349 N.E.2d 73. Appellate Court of Illinois, First District (Appendix, pp. (A. 120-123)).

JURISDICTIONAL GROUNDS.

1. Nature of the proceeding. A divorce on grounds of mental cruelty was awarded to KURT ROSENBAUM from JEAN ROSENBAUM, his wife for 36 years and the mother of his three children which she delivered naturally, although he was denied a divorce on identical grounds in two prior cases. The Wife,

who strongly contested the case pro se, has challenged the constitutionality and or validity of a recent amendment to Ill. Rev. Stat. (1983), Ch. 40, Sec. 401 (known originally as P. A. 83-954, which permits one spouse to file for divorce and to be awarded same, after two years of ing apart, without citing fault grounds.

2. Dates of Orders and Judgments. The Appellate Court of Illinois, First District, affirmed the trial court decision in its ORDER DISPOSING OF APPEAL UNDER SUPREME COURT RULE 23 entered March 5, 1985 (Appendix (A.12-26)). The JUDGMENT OF DISSOLUTION OF MARRIAGE was entered by trial court on December 16, 1983 (Appendix, (A.67-102)). Wife also seeks review of the decision of the Appellate Court of Illinois, First District, entered December 28, 1982 in the related Interlocutory Appeal No. 82-1790 on the

injunction issues, also known as ORDER DISPOSING OF APPEAL UNDER SUPREME COURT RULE 23, which affirmed the trial court decisions (Appendix (A.1-10)).

The Appellate Court Order denying Wife's Petition for Rehearing in Appeal No. 84-0489 was entered April 16, 1985 (Appendix, (A.27)).

The Appellate Court Order denying Wife's Petition for Rehearing in Interlocutory Appeal No. 82-1790 was entered on February 2, 1983 (Appendix (A.11)).

The Supreme Court of Illinois denied Wife's PETITION FOR APPEAL AS A MATTER OF RIGHT, Or in the Alternative, PETITION FOR LEAVE TO APPEAL on October 2, 1985 (Appendix (A.29-30)), and refused Wife's request for reconsideration of that Order in an Order entered November 12, 1985 (Appendix, (A.31)), on which day its Mandate was issued to the Appellate Court (Appendix,(A.29-30)).

Wife's Notice of Appeal was filed in the Appellate Court of Illinois, First District, on November 22, 1985 (Appendix, (A.32-66)).

3. Statutory Provisions Conveying Jurisdiction. It is believed the following statutory provisions confer jurisdiction of the appeal on this Court: 28 USCA 1257(2): 28 USCA 2101(c); 28 USCA 2103; and 28 USCA 2106. Pursuant to Supreme Court of United States Rule 28(4)(c), it is stated also that Federal Statute 28 USC §2403(b) may be applicable to this cause. It is further stated that to the best of knowledge of JEAN ROSENBAUM, no State of Illinois court has certified to the State Attorney General the fact that the constitutionality of Illinois P. A. 83-954 (effective July 1, 1984), an amendment to Ill. Rev. Stat. (1983), Ch. 40, Sec. 401, has been drawn in question, as well as that of Sec. 402 of the same

Chapter.

The amendment to Section 401 permits one spouse to divorce the other after two years of living apart, with no regard for loss of family inheritance, pension and other important spousal rights of the dissenting spouse, etc.

Section 402 equates the legal enforcement of spousal support rights with legal separation, which can automatically lead to other losses of spousal rights and further family difficulties.

The texts of 28 USCA 1257(2), 28 USCA 2101(c), 28 USCA 2103 and 28 USCA 2106 are set forth following:

> "28 USCA 1257(2): Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows: (2) By appeal, where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity."

INSERT "A"

This appeal was initially submitted for docketing within 90 days from the Illinois Supreme Court's denial of Wife's PETITION FOR APPEAL AS A MATTER OF RIGHT, Or in the Alternative, PETITION FOR LEAVE TO APPEAL, the Order of denial being issued on October 2, 1985 (Appendix, A. (29-30)).

The text of 28 USC §2403(b) follows:

"(b) In any action, suit or proceeding in a court of the United States to which a State or any agency, officer, or employee thereof is not a party, wherein the constitutionality of any statute of that State affecting the public interest is drawn in question, the court shall certify such fact to the attorney general of the State, and shall permit the State to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The State shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality."

"28 USCA 2101(c): Any other appeal or any writ of certiorari intended to bring any judgment or decree in a civil action, suit or proceeding before the Supreme Court for review shall be taken or applied for within ninety days after the entry of such judgment or decree. A Justice of the Supreme Court for good cause shown may extend the time for applying for a writ of certiorari for a period not exceeding sixty days."

"28 USCA 2103: If an appeal to the Supreme Court is improvidently taken from the decision of the highest Court of a State, or of a United States court of appeals, in a case where the proper mode of a review is by petition for certiorari, this alone shall not be ground for dismissal, but the papers whereon the appeal was taken shall be regarded and acted on as a petition for writ of certiorari and as if duly presented to the Supreme Court at the time the appeal was taken ....."

"28 USCA 2106: The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate or set aside or reverse any judgment, decree or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree or order, or require such further proceedings to be had as may be just under the circumstances."

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED.

The case involves the following provi-

sions of the United States Constitution: Amendments I, IV, V, IX, X, XIII, XIV. The pertinent texts of these Amendments are set forth in the Appendix (A.105-108).

The case involves the following Federal Statutes: Social Security; 42 USCA 402 (b)(1), 42 USCA 402(5)(A)(B); and 42 USCA 416 (c)(1). The pertinent texts of these Federal Statutes are set forth in the Appendix (A.108-109).

The case involves the following State of Illinois Statutes: Ill. Rev. Stat. (1983), Ch. 40, Sec. 401, Sec. 402, Sec. 503, Sec. 1001 and Sec. 1007. See the Appendix for the pertinent texts of these Illinois Statutes, pages (110-113-c) thereof.

STATEMENT OF THE CASE.

This is the third divorce suit filed by Husband on grounds of mental cruelty

against Wife, who bore him three children, that she has had to contest, finally Pro Se. Although he is a U. S. citizen, he is of European background, and the constant litigation has eaten up Wife's earnings and left her with permanently damaged health. At no time during the over 17 years of litigation has she found any Illinois Court genuinely willing to enforce her rights as a Mother and Wife, and this has affected the marital and social attitudes of her three children tremendously.

The PETITION FOR DISSOLUTION OF MARRIAGE (hereinafter referred to as PETITION)was served to Wife on October 11, 1981, when the second suit on all issues had not been fully finalized, contrary to law, but the Court would not dismiss it.

Wife filed a DEMAND FOR BILL OF PARTICULARS, and Husband's ANSWER included a Police Complaint Wife had signed in desperation, when Husband violently and

uncontrollably physically attacked her one day without her provocation. Wife's MOTION TO STRIKE the Answer provided evidence Husband's attorney had misquoted her in his other charges. Wife's RESPONSE to the PETITION told the Court of Husband's severe blow on the head in an auto accident during the first years of marriage, and spells of unusual behaviour since. She further explained Husband's near-nervous breakdown due to urban renewal in his business neighborhood prior to leaving the marital premises, and that he frequently told her "she is not his Wife" despite their legal marriage. She asked the Court to dismiss the suit, which it refused to do.

In December, 1981, Wife filed a MOTION FOR INJUNCTIVE RELIEF, asking that Husband be restrained from abusing her physically and otherwise, from disposing of assets, and for a permanent injunction

to prevent Husband from filing further harassing divorce suits against her. Eventually Pre-Trial Court entered an injunction to prevent insults and her physical abuse, but refused other relief. Husband asked for an injunction to prevent Wife from telephoning him at the Rosenbaum office, in which she claimed a one-half interest, the only practical place where she could reach him, and it was entered. Wife then filed Interlocutory Appeal 82-1790 on the injunction issues, and the Appellate Court affirmed the trial court judgment in this respect completely. (A partial copy of the transcript of a hearing before Pre-Trial Judge Buckley relating to the injunction he entered against her appears in the Appendix (A.115-117), and reveals his unusual prejudice against her cause. In trial court, Trial Judge Ryan exhibited similar, strong attitudes against Wife.)

Wife's several requests for a referral to the Cook County Conciliation Service were consistently denied by both Judges.

Wife filed a MOTION RE DISCOVERY, and Husband's Answer to her Interrogatory on sworn oath admitted to marital assets of roughly $75,000-$100,000.00. Through discovery (drastically reduced by the Courts), Wife eventually discovered marital assets in excess of $600,000.00, and there is undoubtedly more. Husband refused to sign a release to the Internal Revenue Service, so she could get copies of his Forms 1099 to verify and discover assets, and the Court refused its aid in this respect. Judge Ryan also refused aid to Wife to enforce her subpoena for records of the 53rd-Woodlawn-Kimbark Shopping Center (in which Wife claims a one-half ownership interest in Husband's shares) and other related matters.

Husband greatly delayed in fulfilling

Wife's discovery requests, and then produced greatly inaccurate records, but nevertheless the divorce trial was hastened and not continued, as the situation justified, and Wife's discovery was never fully enforced.

Wife presented a MOTION FOR DECLARATORY JUDGMENT to trial court to establish what her rights as a Mother and Wife were, and it was denied. Appellate Court has evaded the issue. Wife asked for another inspection of real estate for evaluation purposes, because the original realtor decided not to get involved; it was denied. At Oral Argument, Attorney Berman admitted he asked them not to get involved. When Wife secured evidence the Rosenbaum practice in self-owned quarters may have been sold (in part or in full) trial court refused to reopen trial to investigate the development, and consistently refused its cooperation in all matters relating to

this marital asset. Trial court also struck from evidence Wife's GROUP EXHIBIT 20, her evidence of the robbery of important business papers from the Rosenbaum office, which might establish the validity of her claim to one-half interest in the Shopping Center property, etc.

During the divorce trial, Judge Ryan deliberately spoke very softly to Wife's deaf, left ear (acquired during the course of prior litigation) as she cross-examined Husband's witnesses, and suddenly dismissed the different witnesses from the stand prior to her completion of the cross-examination, when she did not hear his instructions. He later refused to recall them. He denied Wife temporary alimony, and her request that he disqualify himself voluntarily because of his prejudice against her, as case law requires. When after the Interlocutory Appeal was completed,

Wife found indisputable evidence of Husband's disposal of marital assets, he refused to restrain Husband from such action but referred the matter to Appellate Court although the case was no longer before them. He denied Wife's subpoena to Chicago-Kent College of Law for daughter Jody's records, and quashed same, and refused to restrain Husband from releasing false information that he was unmarried. Eventually he denied Wife payment from marital funds of her current, expensive dental care, special equities, retraining, etc., and restrained her from contacting Husband at the Quadrange Tennis Club of the University of Chicago, her only avenue remaining.

There is presently an arrearage in the Court-controlled bank account in which Husband was ordered to place all cash payments due Wife under the JUDGMENT OF

DISSOLUTION. Judge Ryan signed this document, and would not revise it, although it states Husband left the marital premises without fault or provocation on his part, despite the earlier determination from the higher court in Rosenbaum v. Rosenbaum (1st Dist. 1976) 38 Ill. App. 3d 1; 349 N.E. 2d 73 (Appendix, (A.121-122)). He refused to hear testimony about events prior to 1974, but attempted (A.69) to readjudicate a matter that happened in 1965. He heard no testimony about Wife's contributions to the marriage prior to 1974, when she was bearing and raising children and working in the Rosenbaum office at the same time, but based the limited financial award to Wife on the years prior to 1965 (Appendix, A.70; A.71; A.72)). He gave Wife no award from the City Savings and Loan Association account (on which her name was listed as co-owner), despite

the Stipulation of the parties hereto that KURT ROSENBAUM personally received all monies paid by that account (Appendix, (A. 104), which amounts to about $2,800) and Husband took a substantial tax deduction because of the loss sustained therefrom, in addition. He also held absolutely no hearing on the contributions of Wife to the marriage from 1965 until 1974, despite her limited financial award.

Wife eventually filed her AFFIDAVIT that the transcript of trial court proceedings contained serious omissions that deleted Judge Ryan's prejudicial statements, and that Judge Ryan stated in her presence "transcripts can be changed."

Nowhere in the 20-page JUDGMENT OF DISSOLUTION appears a trial court ruling on the issue of the oral contract/agreement between the parties made prior to, at time of, and reiterated after marriage, which made Wife one-half owner of all

property acquired during the marriage, despite the INTERLOCUTORY APPEAL ORDER requiring same (Appendix, (A.6)). Nor was the matter encompassed in any other Order.

In trial court, Wife preserved the right to argue the then new Public Act 83-954, an amendment to Section 401 of the Illi-Marriage and Dissolution of Marriage Act, Ill. Rev. Stat. (1981-1983), Ch. 40, effective July 1, 1984, should it be applied to the Rosenbaum case, because of overlapping dates, and she argued the point in her Appellate Brief, when the amendment became effective during the course of her appeal. All Constitutional issues were properly preserved initially in trial court.

Trial court referred the supersedeas and stay of Judgment issue to Appellate Court, which denied it, as well as Wife's request for a Prehearing Con-

ference. In its Order entered March 21, 1985, Appellate Court denied Wife's request for leave to file correspondence of pertinent nature with that Court. This correspondence included the highly important information that Wife had just learned in a very unusual way that Helmuth Teichner, who was an important witness against her, may now suddenly be in possession of Wife's sterling silver flatware (left for safekeeping daughter Jody) for which he paid a paltry sum, without Wife's authorization. The flatware was evaluated at about $5,000-$6,000.00, and the new information also strongly suggests that many years ago, he terrorized Jody.

The written Record on Appeal, containing voluminous Exhibits from both parties and a Report of Proceedings of about 830 pages, consists of approximately 1,769 pages. All issues were properly preserved in trial court, but because of

the large Record, it is not easy to find the stage in the proceedings in trial court at which the questions sought to be reviewed were raised. In a general way, it can be said that all questions were raised by some form of motion, and trial court invariably denied same. It allowed continuance after continuance to Husband to comply with discovery, but usually did not delay hearings or trial because of his lack of production. When Wife found indisputable evidence of Husband's vacation with another woman for which he paid (although he did not support Wife), through documents eventually produced, trial court had already orally announced Husband would be granted a divorce, and it refused to vacate that decision. The trial judge was most active in suppressing evidence that could defeat Husband's cause.

Wife's RESPONSE (TO PETITION FOR DISSO-

LUTION OF MARRIAGE DATED SEPTEMBER 25, 1981, timely-filed on November 9, 1981, immediately entered the Constitutional issues of Amendments V and XIV of the U. S. Constitution, (R. C.66). She continued to enter Constitutional clauses into proceedings throughout the case, and summarized them in her POST-TRIAL MOTION MOTION TO VACATE JUDGMENT OF DISSOLUTION OF MARRIAGE (R. C.1599-C.1628) as follows:

AMENDMENTS V and XIV .....(R.C.1604)

AMENDMENTS I, VIII, IX, ...(R.C.1605)

X, XIII ..... " "

Also see:.....(R.C.1607)

" " .....(R.C.1613-14)

AMENDMENTS entered re injunctions; see:

AMENDMENT IV .....(R.C.396)

AMENDMENTS I, IX, X .....(R.C.397)

Both Judges in trial court were totally disinterested in protecting Wife's proclaimed Constitutional rights, and Judge

Ryan outright scoffed. All documents pertaining thereto, to best of recollection, were denied in trial court.

At the Appellate level, the Constitutional issues were pleaded in Wife's Brief in Appeal No. 82-1790, on pages 26-28 thereof, and again discussed on pages 9-11 of her Reply Brief, and on pages 13-15 of her Petition for Rehearing. The Appellate ORDER DISPOSING OF APPEAL in this case (Appendix,(A.9-10))apparently considered them of no pertinent importance, stating (Appendix (A.10))--

"We, therefore, decline to consider the cited (Constitutional) provisions"

although they had been properly briefed.

In Appeal No. 84-0489, Wife pleaded Constitutional issues on pages 44 and 46 thereof, which the ORDER DISPOSING OF APPEAL ignored. She again raised the Constitutional issues on pages 10, 30, 31 and 32 of her PETITION FOR REHEARING, which was denied without comment (Appen-

dix, (A.27)).

The issue of the constitutionality of Public Act 83-954 was initially entered in trial court (R. C. 1608) by Wife; then presented in her Appellate Brief for Appeal 84-0489, pp. 44-47 thereof. The issue was again raised in Wife's Petition for Rehearing, pp. 31-34, but was ignored by the APPELLATE ORDER DISPOSING OF APPEAL (Appendix, (A.12-16)).

The issue of the constitutionality of Ill. Rev. Stat. (1983), Ch. 40, Sec. 402, which requires a spouse to legally separate the family to enforce support rights, was early raised in trial court (C.64). It was again entered in trial court in connection with Wife's PETITION FOR TEMPORARY RELIEF (C.740), asking for temporary alimony, which trial court denied. The temporary alimony issue was presented in Wife's Appellate Brief on page 61 thereof, and Appellate Court

affirmed all trial court decisions. Wife's Petition for Rehearing, pages 20-21, again mentions the issue.

The Appellate ORDER DISPOSING OF APPEAL (84-0489) cites In Re Marriage of Greenberg (1st Dist.1981), 102 Ill. App. 3d 938, 945-946; 429 N.E.2d 1334 to substantiate its point that property division need not be approtioned equally. However, the Greenberg case gives the Wife over 51% of the marital property (Appendix (A.22; A.118-119), and she also received an award of temporary support of 20% of Husband's net income. It is a case similar to the Rosenbaum's in many ways, but the evaluation of the Husband's practice as "minimal" does NOT include self-owned business property, as exists in the Rosenbaum case.

The relationship of the Social Security Act to P. A. 83-954 was discussed in Wife's Brief, page 46, in

Appellate Court, as well as in her PETITION FOR REHEARING, pages 31-34, but did not appear to be heeded by that Court, which did not mention it in its final ORDER DISPOSING OF APPEAL. That Court denied Wife's motion asking the panel to clarify if it had applied the Act to the Rosenbaum decision. She believes this, also, to be unconstitional under Amendments V and XIV, as it is her belief she has a legitimate right to know what she is fighting!

Wife's Brief (84-0489) also asked for damages from Husband, because of the intentional physical, mental, emotional and financial damage he has done to her, as well as to the attitudes and development of her three children (also his). She acquired her deafness during his harassing litigation and because he refused to support her, Ill. Rev. Stat. (1983), Ch. 40:1001. The issue was re-

raised in her PETITION FOR REHEARING, but not heeded or commented on by Appellate Court (page 29, Petition for Rehearing).

The Courts below equated informal separation of the parties with a form of divorce despite law from Federal Courts that has ruled otherwise, as well as State law. In Kandelin v. Social Security Board, C.C.A.N.Y. (1943), 136 F. 2d 327, 147 A.L.R. 596, it was ruled:

> "A wife is still a "wife" after she has abandoned her husband, and she becomes his "widow" when he dies and is therefore entitled to an award under section 402 of this title, unless this subchapter provides otherwise."

THE QUESTIONS PRESENTED ARE SUFFICIENTLY SUBSTANTIAL TO REQUIRE PLENARY CONSIDERATION.

The questions presented are very important to today's society, and sufficiently substantial to require the full and plenary consideration of the Supreme Court of the United States. Following

are a few of the reasons:

1. It is said that the traditional family structure in this country has grown very weak due to changing values in society. This is not necessarily true. From the facts presented, it can be seen that much of the fault lies in the Courts, and the refusal of Judges to enforce spousal rights. Despite some progressive legislation, Jean Rosenbaum, who married for a lifetime in 1948 and who has not changed her family values, has been unable to enforce any family right, or even to establish exactly what they are! She has found herself "almost divorced" with a meager allotment of marital assets, and if she meets with financial difficulty, her already damaged children must bear the brunt, and not the affluent Husband, who can dispose of marital assets in a way that will NOT benefit the family.

She has done no real wrong, but has been forced to spend years of her life and much of her funds to meet the never-ending litigation heaped upon her by persons who want to see her live like a "slave," with no enforceable rights, U.S. Amendment XIII. Rosenbaum v. Rosenbaum (1st Dist. 1976), 38 Ill. App. 3d 1, 349 N.E. 2d 73, ruled that a spouse desiring a divorce on mental cruelty grounds must prove lack of provocation (Appendix, (A.120-123)). Graff v. Graff (1st Dist. 1979), 71 Ill. App. 3d 496, 502, 389 N.E. 2d 1206, again ruled that proof of lack of provocation is an essential part of plaintiff's marriage dissolution case, but Kurt Rosenbaum has been rewarded with a divorce for publicly insulting and ignoring his wife, frequently hitting her, refusing to support her or provide her with a proper home such as he lives in, spending marital funds on other women, etc.

If the Illinois Appellate Court of the First District will not respect its own reasonable decisions, one can hardly expect citizens to respect the higher courts, or the entire court system.

The attitudes and development of the Rosenbaum children have been sorely damaged by watching "Mother" live at a much lower standard of living while Father is left free to spend marital funds on other women. If this has happened in the Rosenbaum family, it has also happened to others in the same way, and it is the duty of the U. S. Supreme Court to step in and attempt to correct the situation. In a court system that exists to protect the innocent from ill-doers, Jean Rosenbaum has lost much of everything that is near and dear to her -- her children have been damaged, her health has been damaged, her modest home was sold from under her and no new home

required to be provided by Husband, and her financial security has been destroyed, although she must soon retire. The JUDGMENT OF DISSOLUTION is based on has-been investment rates, which have considerably dropped, and does not consider the high doctor bills and medical expenses that may come with older age, some of which Wife has already encountered. It is an unrealistic, as well as inaccurate misrepresentation of facts, and can set a dangerous precedent.

2. In Struckoff v. Struckoff, 76 Ill. 2d 53, 60; 389 N.E.2d 1170 (1974), the Illinois Supreme Court ruled that a Court's jurisdiction in dissolution of marriage action is conferred only by statute, and it must act within statutory grant and may not rely upon its general equity powers. As Ill. Rev. Stat. (1983) Ch. 40, Sec. 401 requires Kurt Rosenbaum to prove his own lack of provocation to

be entitled to a divorce, it is apparent that the courts below exceeded their statutory grant of jurisdiction when granting him a divorce, which they were not entitled to do. The misuse of power can be very dangerous, as well as highly destructive, and the lower courts should be reprimanded properly, which can only be done effectively by the United States Supreme Court reviewing their decision.

3. Public Act 83-954, which permits one spouse to divorce the other after a two-year separation, shows a contempt for parents and children alike. As spousal social security rights, pension rights, inheritance rights, etc. can be taken away at the whim of the complaining spouse, this Act cannot be a validly Constitutional Act. Parents, can be forced, thus, to hand the welfare of their children over to a Court or Judge who has only a superficial

knowledge of the situation, which is dangerous, and contrary to the decision in Moore v. City of East Cleveland (1977) 431 U. S. 494, 503, which states --

> "Constitution protects the sanctity of the family precisely because the institution of the family is deeply rooted in this Nation's history and tradition."

Public Act 83-954 violates the foregoing concept and is in conflict with it, as are no-fault divorce laws in other States. It is a precarious situation, leaving family people in "mid-air", not knowing what might come next. It is necessary for the Supreme Court of the United States to "stabilize" the situation for the sake of society, and in the interest of family stability.

4. In 1948 Jean Rosenbaum married Kurt Rosenbaum and a part of their agreement prior thereto was that she would always be considered a 50% partner in the marriage. She often went

through sparse and troubled times with him. He is presently 73 years old, showing the ravages of age in different ways, and often "confused." Just prior to leaving the marital premises, he talked of having another child, and then suddenly left, which may have been the influence of another person who had no right to be in tne situation. Wife was left in middle-age without the possibility of having another family and, since then, has been deprived of all tne family experiences to which she is entitled by Husband. With a careless divorce entered, she also loses the old-age protections of the 60% spousal benefit in Husband's European pension, if she is predeceased, as well as any share of the pension of the American Optometric Society into which he has paid far over $100,000.00. The welfare rolls of this country have swollen with the kind of thinking that

permits these inequities to exist, and society is paying the toll with higher taxes, etc. Furthermore, the facts presented in this case evidence that the United States Constitution is left meaningless, if proper corrections in the process and judgments of the Courts are not forthcoming.

WHEREFORE, for the foregoing reasons, this Court should note probably jurisdiction of this appeal. Should the Court deem otherwise, then Appellant asks for such other relief as it deems equitable, providing such relief is acceptable to her goals.

Respectfully submitted,

JEAN ROSENBAUM, Appellant,
acting Pro Se.

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STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

AFFIDAVIT

JEAN ROSENBAUM, being first duly sworn upon oath, deposes and states she is the Petitioner, acting Pro Se in the aforestated cause, that she has read the foregoing JURISDICTIONAL STATEMENT by her subscribed, that she knows the contents thereof, and the same is true in substance and in fact.

JEAN ROSENBAUM, Petitioner,
acting Pro Se.

Subscribed and sworn to before me, a Notary Public of the State of Illinois, County of Cook, this 30th day of December, 1985.

Notary Public 4/14/86

Jean Rosenbaum, Pro Se
1354 West Greenleaf Street
Chicago, Illinois 60626
973-6047 (312)

STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

AFFIDAVIT

JEAN ROSENBAUM, being first duly sworn upon oath, deposes and states she is the Appellant, acting Pro Se the aforestated cause, that she has read the foregoing revised JURISDICTIONAL STATEMENT by her subscribed, that she knows the contents thereof, and the same is true in substance and in fact.

She also states that the original JURISDICTIONAL STATEMENT by her subscribed was timely-filed by United States Mail with Clerk of the Supreme Court of the United states on December 31, 1985, and the copies thereof returned to her voluntarily for revision by the Clerk of that Court on January 7, 1986 (received by her on January 13, 1986.

Pursuant to Supreme Court Rule 33.7, filing is not deemed untimely if the revised version is returned within a reasonable period of time (usually 21 days from January 7, 1986, according to the various Clerks of the Supreme Court of the United States).

Jean Rosenbaum

JEAN ROSENBAUM, Appellant,
acting Pro Se.*

Subscribed and sworn to before me, a Notary Public of the State of Illinois, County of Cook, this 22nd day of January, 1986.

Margaret B. Zgurowski

Notary Public *

My Commission Expires August 2, 1988

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* See copy marked "Notarized Copy" for original signatures.